

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION**

BRYAN P. SPENCE, *et al.*,

Plaintiffs,

v.

LLOYD J. AUSTIN, III, in his official capacity
as United States Secretary of Defense, *et al.*,

Defendants.

Case No: 4:22-cv-00453-O

**SUPPLEMENTAL APPENDIX IN SUPPORT OF
PLAINTIFFS' REPLY BRIEF IN SUPPORT OF MOTION FOR
TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION**

Plaintiffs file this Supplemental Appendix in Support of Plaintiffs' Reply Brief in Support of Motion for Temporary Restraining Order and Preliminary Injunction, and in support thereof, show the Court as follows:

APPENDIX

EXHIBIT NO.	DESCRIPTION	S.APP. RANGE
1	Supplemental Declaration of Major Ryan Corcoran, June 24, 2022	S.App. 1–5
2	Supplemental Declaration of Captain Alan C. Sosebee, June 24, 2022	S.App. 6–10
3	Supplemental Declaration of Major Steven Randall Haynes, June 24, 2022	S.App. 11–16
4	Supplemental Declaration of Lieutenant Colonel Tyler William Stef, June 24, 2022	S.App. 17–21
5	Supplemental Declaration of Lieutenant Colonel Andrew T. Grieb, June 24, 2022	S.App. 22–26
6	Declaration of Lieutenant Colonel Michael B. McCoy, June 23, 2022	S.App. 27–31

June 27, 2022

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Respectfully submitted,

/s/ Gene C. Schaerr

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under the supervision of D.C. attorneys.

Counsel for Plaintiffs and the Proposed Class

CERTIFICATE OF SERVICE

I hereby certify that on June 27, 2022, I electronically filed the foregoing document through the Court's ECF system and will serve a copy on each of the Defendants according to the Federal Rules of Civil Procedure.

/s/ Gene C. Schaerr
Gene C. Schaerr

EXHIBIT 1

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS**

BRYAN P. SPENCE, *et al.*,

Plaintiffs,

v.

LLOYD J. AUSTIN, III, *et al.*,

Defendants.

Case No: 4:22-cv-00453

SUPPLEMENTAL DECLARATION OF MAJOR RYAN CORCORAN

Pursuant to 28 U.S.C. §1746, I, Major Ryan Jeremiah Corcoran, under penalty of perjury, declare as follows:

1. I am over the age of eighteen and am competent to make this supplemental declaration.
2. The following events have occurred after May 24, 2022 and serve to supplement my original declaration (“Declaration”) executed on that same day.
3. On June 6, 2022, I received a Letter of Reprimand (“LOR”) from my commander, Lieutenant Colonel Rimpa Patel.
4. The LOR states that on “Friday, 29 April 2022 you failed to comply with my lawful written order to receive the initial dose of the mandatory COVID-19 vaccine. You acknowledged this order in writing and then were derelict in the performance of your duty in that you willfully failed to receive the first dose of the COVID-19 vaccination. Your conduct is in direct violation of Article 92, Uniform Code of Military Justice (UCMJ).”
5. I was given forty-five (45) days from receipt of the LOR to respond with “[a]ny comments or documents you wish to be considered concerning this [LOR].” My commander has permitted me to consult with the Area Defense Counsel before submitting my response.
6. I am concerned that I could face a court martial for refusing to be vaccinated for religious reasons, as the LOR states that my conduct is in violation of Article 92 of the UCMJ, or transferred to the Inactive Ready Reserve, which would render my final year incomplete and result in a separation discharge with loss of all retirement benefits.
7. If my LOR is sustained, it will be placed in an Unfavorable Information File.
8. Additionally, on June 23, 2022, I received an email from The Air Force Total Service Center. The email states as follows: “Unfortunately, your application [for a January 2023 retirement] has been disapproved. Per Col William Roff’s comments and SecAF memo you are to retire by 7 Dec 2021 and you will not have 20 satisfactory years to retire by that date.”
9. If I had taken the COVID-19 shot regimen as ordered, I would have reached 20

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satisfactory years to retire.

10. Now that my retirement application has been disapproved, I will not be able to retire with full retirement benefits, to include retirement pay and healthcare for life at age 60. I will be forced out of the Air Force by way of the discharge process. If this court immediately intervenes, such action will ensure that my career is not further negatively impacted.
11. Additionally, being kicked out and issued a General Discharge rather than an Honorable Discharge or receiving a court martial conviction may have a challenging effect on future employment opportunities.

I declare under penalty of perjury that the foregoing is true and correct. Executed on June 24, 2022.



Ryan Jeremiah Corcoran

Signature Certificate

Reference number: HV3DW-NIUDF-CT58K-V9NHE

Signer	Timestamp	Signature
Ryan Corcoran Email: [REDACTED] Sent: 24 Jun 2022 13:16:07 UTC Viewed: 24 Jun 2022 13:59:39 UTC Signed: 24 Jun 2022 14:01:58 UTC		
Recipient Verification: ✓ Email verified	24 Jun 2022 13:59:39 UTC	IP address: [REDACTED] Location: Florence, United States

Document completed by all parties on:
24 Jun 2022 14:01:58 UTC

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EXHIBIT 2

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS**

BRYAN P. SPENCE, *et al.*,

Plaintiffs,

v.

LLOYD J. AUSTIN, III, *et al.*,

Defendants.

Case No: 4:22-cv-00453

SUPPLEMENTAL DECLARATION OF CAPTAIN ALAN C. SOSEBEE

Pursuant to 28 U.S.C. §1746, I, Captain Alan C. Sosebee, under penalty of perjury, declare as follows:

1. I am over the age of eighteen and am competent to make this supplemental declaration.
2. The following events have occurred after May 23, 2022 and serve to supplement my original declaration (“Declaration”) executed on that same day.
3. In paragraph 30 of my Declaration, I stated that my 94th Flying Training Squadron commander (“94 FTS/CC”) advised me on May 23, 2022 that 12th Flying Training Wing commander (“12 FTW/CC”) was upholding my Letter of Reprimand (“LOR”) that was issued to me on April 26, 2022 for refusing to get vaccinated. The LOR states in relevant part that I “failed to obey a lawful order to receive the COVID-19 vaccine, in violation of Article 92, *Uniform Code of Military Justice* (UCMJ).” The LOR was sustained and placed in my official record in an Unfavorable Information File, which is presently having a devastating impact on my career.
4. On June 15, 2022, the 94 FTS/CC requested that I meet with him that afternoon to discuss the 12 FTW/CC’s decision to delay my upcoming pin-on date for my already-approved promotion to the rank of Major.
5. During the meeting, the 94 FTS/CC told me that my official promotion date was being delayed by six months (until May 1, 2023). In the Record of Promotion Propriety Action that the 12 FTW/CC filed against me, he said my failure to follow his order to get vaccinated against COVID-19 means there is “cause to believe [I] have not met the requirement for exemplary conduct” and that such conduct suggests that I am “not professionally qualified to perform the duties of the next higher grade” even though the Major selection board already determined otherwise. According to the selection board, I was more qualified than the majority of my peers because I received such a high line number (in the 300s out of approximately 1100 other Major-selects).
6. Pursuant to the AF Form 4363 titled Record of Promotion Propriety Action that I received from the 94 FTS/CC on June 15, 2022 memorializing the 12 FTW/CC’s intent to delay

my promotion, it states that not only may my promotion be delayed by six months, but there is a possibility that it could be delayed longer than the six-month recommendation.

7. Before this delay is finalized, I have been given the opportunity to respond by Monday, June 27, 2022.
8. After I respond, if the approval authority decides to uphold the decision to delay my promotion, which could happen at any time next week, the delay will not only result in a forfeiture of pay at the rank of Major for six months, but it will most likely prevent me from fulfilling my in-residence schooling requirements, which are necessary for me to be eligible for a command position. The vast majority of Air Force officers are only looked at to attend school in-residence during a very specific window, and any delay to your career that causes your “first look” to be outside that window drastically reduces your chances of getting picked up for school.
9. Additionally, I am concerned about the possibility of being court martialed, since I have now been advised that my actions constitute a violation of Article 92 of the UCMJ.
10. If this court immediately intervenes, such intervention will ensure that my promotion to Major will take place November-December 2022 and that no other adverse action is taken against me.

I declare under penalty of perjury that the foregoing is true and correct. Executed on June 23, 2022.

Alan Sosebee

Alan C. Sosebee

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Signature Certificate

Reference number: VQTCF-AHUYL-RLRZM-FWCZY

Signer	Timestamp	Signature
Alan Sosebee Email: [REDACTED] Sent: 24 Jun 2022 01:06:22 UTC Viewed: 24 Jun 2022 16:16:03 UTC Signed: 24 Jun 2022 16:17:21 UTC		
Recipient Verification: ✓ Email verified	24 Jun 2022 16:16:03 UTC	IP address: [REDACTED] Location: Dallas, United States

Document completed by all parties on:
24 Jun 2022 16:17:21 UTC

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EXHIBIT 3

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS**

BRYAN P. SPENCE, *et al.*,

Plaintiffs,

v.

LLOYD J. AUSTIN, III, *et al.*,

Defendants.

Case No: 4:22-cv-00453

SUPPLEMENTAL DECLARATION OF MAJOR STEVEN RANDALL HAYNES

Pursuant to 28 U.S.C. §1746, I, Major Steven Randall Haynes, under penalty of perjury, declare as follows:

1. I am over the age of eighteen and am competent to make this supplemental declaration.
2. The following events have occurred after May 23, 2022, and serve to supplement my original declaration executed on that same day.
3. In paragraph 30 of my May 23, 2022 declaration (“Declaration”) to this Court, I stated that a Letter of Reprimand (“LOR”) was written for me, was being reviewed by the 22nd Air Force commander, and was going to be delivered and placed in my permanent personnel file within the next few weeks.
4. In paragraph 31 of my Declaration, I stated that I would be meeting my promotion board this month and that the issuance of an LOR would be untimely because it will be taken into consideration as part of my promotion package.
5. As predicted, on June 13, 2022, I was issued an LOR by my Operations Group Commander for failure to follow a lawful order to get the Pfizer COVID-19 vaccine. I was given three days to provide a response to the LOR.
6. On June 16, 2022, I provided a response to the LOR to my Operations Group Commander. He sustained the LOR that same day, June 16, 2022, which will have a devastating impact on my career.
7. As stated in the LOR, “If this LOR is sustained, it will be placed in an [Unfavorable Information File (“UIF”)]. Additionally, if sustained, I will place the LOR in your Officer Selection Record [(“OSR”)], in accordance with DAFPM 2021-36-03. Any comments or documents you wish to be considered concerning this document must be

submitted at that time. If you submit supporting documents they will become part of the record. Ensure you provide any comments regarding UIF and OSR placement in your response to this LOR if you choose to respond.”

8. I am also concerned that I could face a court martial for refusing to be vaccinated for religious reasons, as the LOR states that “[t]his is a violation of Article 92, Uniform Code of Military Justice.”
9. On Thursday, June 16, 2022, my LOR was sustained, and on Friday, June 24, 2022, my commander at the 5th Flying Training Squadron provided me with AF Form 1058, which establishes a UIF containing my LOR. I have until Thursday, June 30, 2022 to respond to this matter.
10. On Friday, June 24, 2022, my commander also provided me with official notice of the involuntary curtailment of my four-year tour of duty and involuntary transfer to Individual Ready Reserve (“IRR”) notification letters. I have 15 days to respond to these matters.
11. If this court immediately intervenes, such action will prevent additional adverse and career-ending actions from being taken against me, such as curtailment of my current 4-year orders, involuntary placement in the IRR, loss of pay and medical benefits, and loss of retirement and all retirement benefits.

I declare under penalty of perjury that the foregoing is true and correct. Executed on June 26, 2022.

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Steven Haynes

Steven Randall Haynes

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Signature Certificate

Reference number: QC5TQ-D2WER-USNKI-YSKJQ

Signer	Timestamp	Signature
Steven Haynes Email: [REDACTED] Sent: 27 Jun 2022 11:21:16 UTC Viewed: 27 Jun 2022 12:12:42 UTC Signed: 27 Jun 2022 12:14:14 UTC		
Recipient Verification: ✓ Email verified	27 Jun 2022 12:12:42 UTC	IP address: [REDACTED] Location: Enid, United States

Document completed by all parties on:
27 Jun 2022 12:14:14 UTC

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EXHIBIT 4

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS**

BRYAN P. SPENCE, *et al.*,

Plaintiffs,

v.

LLOYD J. AUSTIN, III, *et al.*,

Defendants.

Case No: 4:22-cv-00453

**SUPPLEMENTAL DECLARATION OF LIEUTENANT COLONEL TYLER
WILLIAM STEF**

Pursuant to 28 U.S.C. §1746, I, Lieutenant Colonel Tyler William Stef, under penalty of perjury, declare as follows:

1. I am over the age of eighteen and am competent to make this declaration.
2. The following events have occurred after May 26, 2022 and serve to supplement my original declaration (“Declaration”) executed on that same day.
3. On May 31, 2022, I was called into my commander’s office where he notified me that the Letter of Admonishment (“LOA”) issued from the wing commander due to seeking an allergy test was being upheld. The facts regarding my LOA are cited in paragraph 60 of my Declaration. The LOA states in relevant part that my submission of a letter from my allergist was “an attempt to disobey the order to receive the COVID-19 vaccine, in violation of Article 92 of the Uniform Code of Military Justice.” I signed the LOA and it is now filed in my Personnel Information File and my Officer Selection Record.
4. On the same day I submitted my Letter of Counseling (“LOC”) response to my commander. The facts regarding my LOC are cited in paragraph 72 of my Declaration. The LOC states, in relevant part, that my actions constitute “a failure to obey a lawful order in violation of Article 92 of the Uniform Code of Military Justice.”
5. In my response to the LOC, I reaffirm my sincerely held beliefs and indicate that I believe my First Amendment rights and my rights under RFRA have been violated.
6. On June 15, 2022, I was called into my commander’s office where he notified me that he was upholding my LOC. The letter orders me again to receive the first dose of the COVID-19 vaccine or submit a request for retirement or separation. This LOC will now be filed in my Master Personnel Records Group and my Officer Selection Record.
7. Having a finalized and upheld LOA and LOC on my record has already significantly impacted my ability to attend future professional military education opportunities and my opportunity to promote to Colonel, thereby depriving the Air Force of a leader with impeccable character and demonstrated leadership ability.
8. Without immediate relief, I am facing further adverse administrative actions. My

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understanding is that the next step at Sheppard Air Force Base will be a “show cause” letter from the 19th Air Force Commander, which I expect to receive at any time, followed by the imminent likelihood of involuntary separation proceedings. Court martial is also a possibility since I have now been advised on two occasions that my actions constitute a violation of Article 92 of the UCMJ.

9. Any further adverse actions will undoubtedly put an end to my career, will have a significant impact on my ability to send my 18-year-old daughter to college later this year because my GI benefits will be taken away, and I will have no chance of seeking retention bonuses, a retirement income, or TriCare for Life health benefits, all of which I have earned due to my exceptionally honorable service to our country.
10. If I am separated from the Air Force, my understanding is that a bad conduct code will be added to my DD214 upon separation, since this is happening across the DOD. A bad conduct code will permanently affect my ability to garner any meaningful employment outside of the military because it will be in my permanent record. Only immediate injunctive relief at this point can stop the progression of these real harms from happening.


I declare under penalty of perjury that the foregoing is true and correct. Executed on June 23, 2022.

Tyler Stef

Tyler William Stef

Signature Certificate

Reference number: DRAHT-F3QH2-VFCQE-HU2JX

Signer	Timestamp	Signature
Tyler Stef Email: [REDACTED] Sent: 24 Jun 2022 00:03:37 UTC Viewed: 24 Jun 2022 00:19:55 UTC Signed: 24 Jun 2022 00:23:30 UTC		
Recipient Verification: ✓ Email verified	24 Jun 2022 00:19:55 UTC	IP address: [REDACTED] Location: Dallas, United States

Document completed by all parties on:
24 Jun 2022 00:23:30 UTC

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EXHIBIT 5

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS**

BRYAN P. SPENCE, *et al.*,

Plaintiffs,

v.

LLOYD J. AUSTIN, III, *et al.*,

Defendants.

Case No: 4:22-cv-00453

**SUPPLEMENTAL DECLARATION OF LIEUTENANT COLONEL ANDREW T.
GRIEB**

Pursuant to 28 U.S.C. §1746, I, Lieutenant Colonel Andrew T. Grieb, under penalty of perjury, declare as follows:

1. I am over the age of eighteen and am competent to make this supplemental declaration.
2. The following events have occurred after May 23, 2022, and serve to supplement my original declaration (“Declaration”) executed on that same day.
3. In paragraph 44 of my Declaration, I stated that I was facing an imminent issuance of a Letter of Reprimand (“LOR”).
4. As predicted, on June 3, 2022, I was issued a LOR by the 340th Flying Training Group Commander for failure to follow a lawful order to get the Pfizer COVID-19 vaccine by May 3, 2022. The LOR states, in relevant part, that “[t]his is a violation of Article 92, Uniform Code of Military Justice.” It also states that, “[i]f this LOR is sustained, it will be placed in an [Unfavorable Information File]. Additionally, if sustained, I will place the LOR in your Officer Selection Record, in accordance with DAFPM 2021-36-03. Any comments or documents you wish to be considered concerning this document must be submitted at that time. If you submit supporting documents they will become part of the record. Ensure you provide any comments regarding UIF and OSR placement in your response to this LOR if you choose to respond.”
5. I was given forty-five calendar days to provide a response to the LOR.
6. If the LOR is sustained by my commander, it will negatively impact my ability to promote to the next officer grade of Colonel and will also negatively impact my service characterization upon discharge. I could also face a court martial for refusing to be vaccinated for religious reasons, as the LOR states that “[t]his is a violation of Article 92, Uniform Code of Military Justice.”
7. If this court immediately intervenes before my LOR is sustained by my commander, such action will ensure that my career is not further negatively impacted by a loss of promotion and the LOR being placed in a Unfavorable Information File. Immediate intervention

will also prevent additional adverse and career-ending actions from being taken against me.

I declare under penalty of perjury that the foregoing is true and correct. Executed on June 24, 2022.



Andrew T. Grieb

Signature Certificate

Reference number: XPOVT-KGQVD-NMZZH-B5VOX

Signer	Timestamp	Signature
Andrew Grieb Email: [REDACTED] Sent: 24 Jun 2022 13:29:54 UTC Viewed: 24 Jun 2022 14:42:02 UTC Signed: 24 Jun 2022 14:44:45 UTC		
Recipient Verification: ✓ Email verified	24 Jun 2022 14:42:02 UTC	IP address: [REDACTED] Location: Edmond, United States

Document completed by all parties on:
24 Jun 2022 14:44:45 UTC

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EXHIBIT 6

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS**

BRYAN P. SPENCE, *et al.*,

Plaintiffs,

v.

LLOYD J. AUSTIN, III, *et al.*,

Defendants.

Case No: 4:22-cv-00453

DECLARATION OF LIEUTENANT COLONEL MICHAEL B. MCCOY

Pursuant to 28 U.S.C. §1746, I, Lieutenant Colonel Michael B. McCoy, under penalty of perjury, declare as follows:

1. I am over the age of eighteen and am competent to make this declaration.
2. I presently reside in Colbert, Washington.
3. I served as a Department of the Air Force (“Air Force”) active-duty service member from May 18, 2003 to November 26, 2014 and as an Air Force Reserve service member from November 26, 2014 to the present.
4. I am presently assigned to the 5th Flying Training Squadron, 340th Flying Training Group at Vance Air Force Base (AFB) in Enid, Oklahoma where my job title is Assistant Flight Commander/T-38 Instructor Pilot. I have been assigned to this unit since November 1, 2020. I was previously assigned to the 97th Flying Training Squadron at Sheppard AFB, which is also part of the 340th Flying Training Group from November 26, 2014 to October 31, 2020.
5. As an Assistant Flight Commander, my duties include assisting the Flight Commander with managing the T-38 Flight, which is comprised of approximately 12 other Instructor Pilots (IPs). I write travel orders for the Flight, ensure that everyone is paid for work performed, and process the other IPs’ travel vouchers.
6. As a T-38 IP, my duties include maintaining my own proficiency in flying the T-38 and teaching the next generation of future fighter and bomber pilots. The T-38 is a two-seat fighter-type aircraft. When I instruct students in the aircraft, I sit in the rear cockpit and a student sits in the front cockpit. Flight instruction includes a pre-flight briefing and a post-flight debriefing that takes place in person, without masking or social distancing.
7. When I am on orders, my duties also include attending weekly Squadron Leadership meetings in person, without masking or social distancing.
8. On October 14, 2021, I submitted a Religious Accommodation Request (“RAR”) to be exempted from the COVID-19 vaccine requirement. On January 7, 2022, I received the initial denial of my RAR from Headquarters Air Force Reserve Command. On January

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12, 2022, I submitted my appeal to the Department of the Air Force Surgeon General. On April 15, 2022, my RAR appeal was ultimately denied. The reasons cited for the denial were mission readiness and that no lesser accommodation in existence.

9. On May 18, 2022, I was granted a medical exemption to the Air Force's COVID-19 vaccine requirement. I have been granted that exemption until at least June 21, 2023.
10. With my medical exemption in place, I am able to work, fly, and earn pay and points in my normal role as a traditional reservist and T-38 IP. In other words, I can perform all of my assigned duties that I would otherwise perform if I was vaccinated. The only restriction placed on me due to my unvaccinated status is that I am not allowed to go on Temporary Duty orders away from Vance AFB. This means that while I can fly missions domestically and perform all the duties of an IP, I am not permitted to stay overnight anywhere other than Vance AFB when I am on orders. This restriction on travel policy is in place for unvaccinated service members across the Air Force. However, I am allowed to travel to Vance AFB from my home in Colbert, WA to perform my duties as an IP and Assistant Flight Commander at the Air Force's expense.
11. There is another IP in my squadron at Vance AFB who also has a COVID-19 vaccine medical exemption and is also allowed to work and fly in accordance with her regular duties.

I declare under penalty of perjury that the foregoing is true and correct. Executed on June 23, 2022.



Michael B. McCoy

Signature Certificate

Reference number: XYYV3-WEU4P-XUCHX-3PDZM

Signer	Timestamp	Signature
Mike McCoy Email: [REDACTED] Sent: 23 Jun 2022 16:27:12 UTC Viewed: 23 Jun 2022 16:34:48 UTC Signed: 23 Jun 2022 18:55:40 UTC		
Recipient Verification: ✓ Email verified	23 Jun 2022 16:34:48 UTC	IP address: [REDACTED] Location: Little Rock, United States

Document completed by all parties on:
23 Jun 2022 18:55:40 UTC

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